

Response

Application No. 10/621,859

Attorney Docket No. 062374

REMARKS

Claims 1-5, 7-13, 22 and 24-29 are pending in the present application. No amendment has been proposed. It is respectfully submitted that this Response is fully responsive to the Office Action dated March 7, 2006.

Examiner Interview:

The courtesy extended by Examiner Chen Wen Jiang to Applicants and Applicants' representative during the July 25, 2006 personal interview conducted at the U.S. Patent Office is gratefully appreciated. The substance of the interview is incorporated into the following remarks.

As to the Merits

As to the merits of this case, the Examiner sets forth the following rejections:

- 1) claims 1-5, 7, 9, 11-13, 22 and 24-29 stand rejected under 35 U.S.C. §102(b) as being anticipated by the ASHRAE Journal article entitled "Preventing Mold by Keeping New Construction Dry." by Harriman et al. (hereinafter referred to as "the Harriman article") or in the alternative, under 35 U.S.C. §103(a) as being obvious over the Harriman article; and

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- 2) claims 8 and 10 stand rejected under 35 U.S.C. §103(a) as being obvious over the Harriman article in view of Munters.

Each of these rejections is respectfully traversed.

During the July 25, 2006 personal interview, it was respectfully submitted that the rejections of 1-5, 7-13, 22 and 24-29 under 35 U.S.C. §102(b) (and 35 U.S.C. §103(a) via §102(b)) based on the Harriman article were improper, since the Harriman article has a publication date of September 2002, which is less than one year before the Applicants' filing date of July 16, 2003.

That is, it was pointed out that the Harriman article fails to qualify as a reference under 35 U.S.C. §102(b), since the publication date of September 2002 clearly does not pre-date the filing date of the present application by more than one year. Accordingly, it was requested that the outstanding rejections under 35 U.S.C. §102(b) (and 35 U.S.C. §103(a) via §102(b)) based on the Harriman article be withdrawn immediately in view of the Harriman article's failure to qualify as a reference under §102(b).

In response, while the Examiner acknowledged that the Harriman article has a publication date of September 2002, the Examiner took the position that the Harriman article was actually

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presented at the 2001 ASHRAE IAQ seminar and therefore it does qualify as a reference under §102(b). That is, the Examiner acknowledged during the interview that he had **handwritten** the text “presented at the 2001 ASHRAE IAQ Seminar” on the Harriman article which was provided with the Office Action dated March 7, 2006. It is also noted that the Harriman article provided with said Office Action also did not include the publication date of September 2002 or any publication date.

When questioned as to why the Examiner would hand write the text “presented at the 2001 ASHRAE IAQ Seminar” on the Harriman article, the Examiner indicated that he done a Google search on the term “ashrae humidity construction” and that one hit based on the search indicated that the Harriman article was presented at the 2001 ASHRAE IAQ Seminar.

However, it is submitted that the hit the Examiner is referring to actually quotes the Harriman article which makes reference to the 2001 ASHRAE IAQ Seminar. More specifically, on page 29, lines 2-4, the Harriman article recites, “That research, presented at the 2001 ASHRAE IAQ seminar, validated the guidance contained since 1999 in Standard S500 published by the Institute of Inspection, Cleaning and Restoration Certification.”

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In view of the above, it is submitted that while the Harriman article clearly makes reference to the 2001 ASHRAE IAQ seminar, there is absolutely no evidence to support the Examiner's position that the Harriman article was presented at the 2001 ASHRAE IAQ seminar. Moreover, it is not understood how the Examiner believes that the Harriman article could have been presented at the 2001 ASHRAE IAQ seminar when the Harriman article makes explicit reference to the same seminar. That is, clearly the Harriman article was written after the 2001 ASHRAE IAQ seminar had taken place.

As such, it is submitted that the Examiner's position that the Harriman article was presented at the 2001 ASHRAE IAQ seminar lacks any type of merit and that the Examiner has completely failed to establish a prima facie case that the Harriman article was published or presented earlier than September 2002, as asserted by the Applicants.

Accordingly, withdrawal of the rejections of 1-5, 7-13, 22 and 24-29 under 35 U.S.C. §102(b) (and 35 U.S.C. §103(a) via §102(b)) based on the Harriman article is respectfully requested.

In view of the accompanying remarks, Applicants submit that the claims are in condition for allowance. Applicants request such action at an early date.

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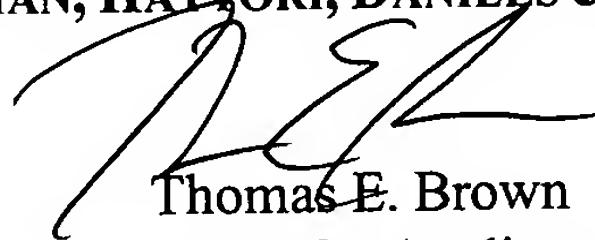
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If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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